

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 317 be amended to read as follows:

- 1 Page 4, between lines 1 and 2, begin a new paragraph and insert:
- 2 **"(l) The commission shall issue an order within one hundred**
- 3 **fifty (150) days after a petition seeking approval under this section**
- 4 **is filed. If the commission fails to issue an order within one**
- 5 **hundred fifty (150) days after the petition is filed, the petition is**
- 6 **considered approved."**
- 7 Page 4, line 2, delete "(l)" and insert "(m)".
- 8 Page 4, line 9, delete "(m)" and insert "(n)".
- 9 Page 9, between lines 24 and 25, begin a new paragraph and insert:
- 10 **"Sec. 1. This chapter does not apply to a merchant power plant**
- 11 **that has filed a petition with the commission under IC 8-1-2.5**
- 12 **before March 1, 2001, seeking an order that the commission**
- 13 **decline to exercise, in whole or in part, its jurisdiction over the**
- 14 **merchant power plant."**
- 15 Page 9, line 25, delete "1." and insert "2.".
- 16 Page 10, line 4, delete "2. (a) A" and insert **"3. Except as provided**
- 17 **in section 1 of this chapter, a"**.
- 18 Page 10, delete lines 6 through 10.
- 19 Page 10, line 11, delete "3." and insert **"4."**.
- 20 Page 10, delete line 18, begin a new line block indented and insert:
- 21 **"(5) Impact on electric, water, and natural gas suppliers and**
- 22 **customers.**
- 23 **(6) The recommendation of the department of natural**
- 24 **resources under section 5 of this chapter.**

(b) The commission shall issue a decision either approving or denying a merchant power plant's petition under IC 8-1-2.5 or IC 8-1-8.5 not later than eighteen (18) months after the date of the petition.

Sec. 5. (a) When petitioning the commission under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant must establish proof of financial responsibility by filing one (1) or a combination of the following with the commission:

- (1) A fully funded trust fund agreement.
- (2) A surety bond with a standby trust fund agreement.
- (3) A letter of credit with a standby trust fund agreement.
- (4) An insurance policy with a standby trust fund agreement.
- (5) Proof that the merchant power plant meets a financial test established by the commission and equivalent to one (1) of the items in subdivisions (1) through (4).

(b) The amount of financial responsibility that a merchant power plant must establish under this section shall be determined by the commission. In all cases, the amount must be sufficient to close the merchant power plant in a manner that:

- (1) minimizes the need for further maintenance and remediation; and
- (2) provides reasonable, foreseeable, and necessary maintenance and remediation after closure for at least twenty (20) years after the merchant power plant ceases operations.

(c) The commission may use:

- (1) a trust fund agreement;
- (2) a surety bond;
- (3) a letter of credit;
- (4) an insurance policy; or
- (5) other proof of financial responsibility;

filed under this section for the closure or post-closure monitoring, maintenance, or remediation of a merchant power plant approved by the commission, if the merchant power plant does not comply with closure or post-closure standards established by the commission under subsection (d).

(d) The commission shall adopt rules under IC 4-22-2 to establish the following:

- (1) Standards for the proper closure and post-closure monitoring, maintenance, and remediation of merchant power plants.
- (2) Criteria for how money in a trust fund agreement, a surety bond, a letter of credit, an insurance policy, or other proof of financial responsibility provided by a merchant power plant may be released to the merchant power plant when the merchant power plant meets the closure and post-closure standards established under subdivision (1).

Sec. 6. (a) Not later than seven (7) days after filing a petition

under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant shall:

- (1) send notice of the petition, including a description of the facility or proposed facility, by United States mail to all record owners of real property located within one (1) mile of the proposed facility; and
- (2) cause notice of the petition, including a description of the facility or proposed facility, to be published in a newspaper of general circulation in each county in which the facility or proposed facility is or will be located.

(b) The notice of the petition shall include:

- (1) a description of the facility or proposed facility; and
- (2) the location, date, and time of the field hearing required by section 7 of this chapter.

Sec. 7. Not later than thirty (30) days after filing a petition under IC 8-1-2.5 or IC 8-1-8.5, a merchant power plant shall conduct a field hearing at a location in a county in which the facility or proposed facility is or will be located. The purpose of the field hearing is to determine local support for the merchant power plant.

Sec. 8. Not later than thirty (30) days after the field hearing required by section 7 of this chapter, a majority of the persons described in section 4(a)(1) of this chapter may request in writing a hearing before the commission.

Sec. 9. (a) Not later than thirty (30) days after a hearing is requested under section 8 of this chapter, the commission shall conduct a hearing at a location in a county in which the facility or proposed facility is or will be located. The hearing required by this subsection must be held:

- (1) before or at the same time as the hearing required under IC 8-1-8.5-5(b); and
- (2) before the commission issues a certificate of public convenience and necessity under IC 8-1-8.5.

(b) At least ten (10) days before the scheduled hearing, notice of the hearing must be served by first class mail on:

- (1) all record owners of property located within one-half (1/2) mile of the proposed facility; and
- (2) the merchant power plant.

(c) The parties to the hearing include:

- (1) a person entitled to notice under section 9(b)(1) of this chapter; and
- (2) the merchant power plant.

(d) The commission shall accept written or oral testimony from any person who appears at the public hearing, but the right to call and examine witnesses is reserved for the parties to the hearing.

(e) The commission shall make a record of the hearing and all testimony received. The commission shall make the record available for public inspection.

1 **Sec. 10. Not later than forty-five (45) days after a hearing is**
 2 **conducted under section 9 of this chapter, the commission shall**
 3 **issue written findings based on the testimony presented at the**
 4 **hearing. To the extent the commission's findings differ from**
 5 **testimony presented at the hearing, the commission must explain**
 6 **its findings."**

7 Page 10, line 19, delete "4." and insert "11."

8 Page 10, between lines 27 and 28, begin a new paragraph and insert:

9 **"Sec. 12. (a) For purposes of this section:**

10 **(1) "department" refers to the department of natural**
 11 **resources; and**

12 **(2) "water resource" has the meaning set forth in**
 13 **IC 14-25-7-8.**

14 **(b) When considering whether to approve a merchant power**
 15 **plant, the commission shall obtain a recommendation from the**
 16 **department regarding the merchant power plant's planned use of**
 17 **and its potential effect on the water resource.**

18 **(c) To make its recommendation, the department may do the**
 19 **following:**

20 **(1) Rely on the merchant power plant's water resource**
 21 **assessment under subsection (d).**

22 **(2) Consult with and advise users of the water resource.**

23 **(3) Enter upon any land or water in Indiana to evaluate the**
 24 **effect of the merchant power plant on the water resource.**

25 **(4) Conduct studies to evaluate the availability and most**
 26 **practical method of withdrawal, development, conservation,**
 27 **and use of the water resource.**

28 **(5) Require metering or other reasonable measuring of water**
 29 **withdrawals and reporting of the measurement to the**
 30 **department.**

31 **(6) Engage in any other activity necessary to carry out the**
 32 **purposes of this section.**

33 **(d) A merchant power plant shall provide an assessment of its**
 34 **effect on the water resource and its users to the commission and**
 35 **the department. The assessment shall be prepared by a licensed**
 36 **professional geologist (as defined in IC 25-17.6-1-6.5) or an**
 37 **engineer licensed under IC 25-31-1. The assessment must include**
 38 **the following information:**

39 **(1) Sources of water supply.**

40 **(2) Total amount of water to be used by the merchant power**
 41 **plant for each source.**

42 **(3) Location of wells or points of withdrawal.**

43 **(4) Ability of the water resource to meet the needs of the**
 44 **merchant power plant and other users.**

45 **(5) Probable effects of the merchant power plant's use and**
 46 **consumption of the water resource on other users.**

47 **(6) Alternative sources of water supply.**

- 1 **(7) Conservation measures proposed by the merchant power**
- 2 **plant for reducing the plant's effect on the water resource.**
- 3 **(8) Other information required by any other law, rule, or**
- 4 **regulation."**

5 Page 10, line 28, delete "5." and insert "**13.**".
(Reference is to ESB 317 as printed April 10, 2001.)

Representative Fry